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4 **BEFORE THE FEDERAL ELECTION COMMISSION**

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FEDERAL ELECTION  
COMMISSION

2014 FEB 21 AM 10: 21

5 In the Matter of )

6 MUR 6599 )

7 North Carolina Democratic Party – Federal )

8 and Muriel K. Offerman as Treasurer )

CASE CLOSURE UNDER  
THE ENFORCEMENT  
PRIORITY SYSTEM<sup>1</sup>

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11 )  
12 **GENERAL COUNSEL'S REPORT**

13 Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring  
14 criteria as a basis to allocate its resources and decide which matters to pursue. These criteria  
15 include without limitation an assessment of the following factors: (1) the gravity of the alleged  
16 violation, taking into account both the type of activity and the amount in violation; (2) the  
17 apparent impact the alleged violation may have had on the electoral process; (3) the complexity  
18 of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal  
19 Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the  
20 Commission's policy that pursuing relatively low-rated matters on the Enforcement docket  
21 warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances  
22 and, where appropriate, to find no reason to believe that a violation occurred. The Office of  
23 General Counsel has determined that MUR 6599 should not be referred to the Alternative  
24 Dispute Resolution Office. For the reasons set forth below, the Office of General Counsel  
25 recommends that the Commission find no reason to believe that the respondents violated the Act  
26 with regard to the allegations in MUR 6599.

27 In this matter, Complainant Scott Laster, executive director of the North Carolina  
28 Republican Party, alleges that the North Carolina Democratic Party ("NCDP") paid from its non-

<sup>1</sup> The EPS rating information is as follows:  
Filed: August 6, 2012.

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1 federal account the salary of a person employed by a "federal electioneering entity," in violation  
2 of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission  
3 regulations. Compl. at 1.

4 Specifically, the Complaint alleges that NCDP disclosed on its 2012 First Quarter report  
5 filed with the North Carolina State Board of Elections that it paid from its non-federal account  
6 the "salary payments and reimbursements" to Krista Anderson, the Operations Director for  
7 Organizing for America ("OFA"). OFA allegedly is a "federal electioneering entity and as such,  
8 cannot be supported through the NCDP state account."<sup>2</sup> *Id.*

9 Attached to the Complaint is an apparent page from NCDP's 2012 First Quarter state  
10 filing that partially lists disbursements purportedly made by NCDP between January 2012 and  
11 April 2012. Compl., Attach. at 1. The document lists four disbursements to "Krista Anderson,  
12 Operations Director (sic), Organizing for America" totaling \$6,379.40: \$3,977.60 for "payroll,"  
13 dated January 30, 2012; \$203.05 for "other"<sup>3</sup> and \$37.12 for "mileage," both dated February 3,  
14 2012; and \$2,161.63 for "payroll," dated February 28, 2012.

15 In its Response, NCDP acknowledges that it had identified Anderson as OFA's  
16 Operations Director on its 2012 First Quarter state filing, but explains that it did so because  
17 Anderson changed jobs early in 2012 and "that report was created after her vendor record in the  
18 Party's database had been modified to reflect her new capacity." Resp. at 1. NCDP maintains  
19 that it employed Anderson "in connection with non-federal matters" for a number of years prior

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<sup>2</sup> The website of Organizing for America, a.k.a. Organizing for Action, indicates that it is an "issue advocacy group formed to support the agenda a majority of Americans voted for in 2012." OFA states that it is a grassroots organization funded entirely by "voluntary donations" that "is not a partisan political organization" and "does not engage in electoral activity with any partisan political organization." <http://www.barackobama.com/faq/> (last visited February 21, 2014).

<sup>3</sup> NCDP voided this transaction on December 31, 2012. See NCDP 2012 Fourth Quarter state filing, <http://cfinance-nc.connect4.clarityelections.com/#ExpenditureReport>.

1 to and including the beginning of 2012, and that she was paid for those activities from NCDP's  
2 non-federal account. *Id.* NCDP asserts that its prior state filings had identified Anderson's title  
3 as Senate Caucus Director, a position she apparently held until the beginning of 2012. *Id.* Early  
4 in 2012, however, Anderson took on a new role as OFA's Operations Director. *Id.* NCDP  
5 acknowledges that she "engaged in federal activities" in that role, but asserts that she has been  
6 paid from NCDP's federal account for "all of the duties that she has performed in that position."  
7 *Id.* The Response attaches several pages from NCDP's reports filed with the Commission  
8 showing that NDCP paid Anderson's "payroll" in February and March of 2012 from its federal  
9 account.<sup>4</sup>

10 According to Commission regulations, state party committees like NCDP that maintain  
11 separate federal and non-federal accounts under 11 C.F.R. 102.5(a)(1)(i) must allocate certain  
12 expenses between those accounts. 11 C.F.R. § 106.7(b). However, salaries, wages, and fringe  
13 benefits paid for employees who spend more than 25% of their compensated time in a given  
14 month on federal election activities, or on activities in connection with a federal election, are not  
15 allocable and must be paid entirely from a federal account. 11 C.F.R. § 106.7(d)(1)(ii), (e)(2).

16 The record in this matter reveals that NCDP misidentified Anderson's position on its  
17 2012 First Quarter state filing when it recorded non-federal payments to her as OFA's  
18 Operations Director. By identifying Anderson in her new federal position rather than in her prior  
19 non-federal position, NCDP's First Quarter state filing suggested that Anderson was paid for  
20 federal activity from NCDP's non-federal account. However, the available information indicates

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<sup>4</sup> NCDP reportedly paid Anderson from its federal account as follows: \$1,529.92, dated February 15, 2012; \$2,166.68, dated February 29, 2012; \$2,166.69, dated March 12, 2012; and \$2,166.68, dated March 30, 2012. See NCDP's March 2012 Amended Monthly Report of Receipts and Disbursements at 64, 69 (Jun. 20, 2012), and April 2012 Amended Monthly Report of Receipts and Disbursements at 108, 138 (Jun. 20, 2012). NCDP's state filing appears to have misidentified Anderson's position at the time the payments were made as being in a federal capacity. However, NCDP's filings with the Commission do not indicate any misreporting of payments to Anderson, nor does the Complaint allege any such misreporting.

1 that NCDP paid Anderson from its federal account when she was involved in federal activity.  
2 Based on the Response and the disclosure reports filed with the Commission, it appears that  
3 NCDP appropriately began making payments to Anderson from its federal account when  
4 Anderson changed jobs from her non-federal position as Senate Caucus Director for NCDP to  
5 her federal position as Operations Director for OFA.

6 The facts indicate that the North Carolina Democratic Party did not make disbursements  
7 from its non-federal account to a person engaged in federal election activities, therefore the  
8 Office of General Counsel recommends that the Commission find no reason to believe that North  
9 Carolina Democratic Party – Federal and Muriel K. Offerman in her official capacity as treasurer  
10 violated the Act or Commission regulations with regard to the allegations in this matter. Further,  
11 the Office of General Counsel recommends that the Commission approve the attached Factual &  
12 Legal Analysis and the appropriate letters, and close the file.

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**RECOMMENDATIONS**

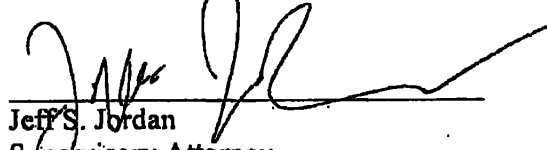
1. Find no reason to believe North Carolina Democratic Party – Federal and Muriel K. Offerman in her official capacity as treasurer violated the Act or Commission regulations with respect to the allegations in this matter;
2. Approve the attached Factual & Legal Analyses and the appropriate letters; and
3. Close the file.

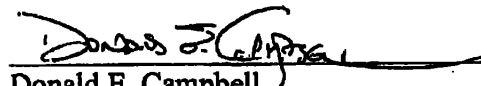
General Counsel

2/21/14  
Date

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